

The Honorable Chief Judge David G. Estudillo

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PAUL D. ETIENNE, JOSEPH J. TYSON,
THOMAS A. DALY, FRANK R.
SCHUSTER, EUSEBIO L. ELIZONDO,
GARY F. LAZZERONI, GARY M.
ZENDER, ROBERT PEARSON,
LUTAKOME NSUBUGA, JESÚS
MARISCAL, MICHAEL KELLY,

Plaintiffs,

v.

ROBERT W. FERGUSON, in his official
capacity as Governor of Washington,
NICHOLAS W. BROWN, in his official
capacity as Attorney General of
Washington, LEESA MANION, in her
official capacity as King County Prosecuting
Attorney, LARRY HASKELL, in his official
capacity as Spokane County Prosecuting
Attorney, JOSEPH BRUSIC, in his official
capacity as Yakima County Prosecuting
Attorney, RANDY FLYCKT, in his official
capacity as Adams County Prosecuting
Attorney, CURT LIEDKIE, in his official
capacity as Asotin County Prosecuting
Attorney, ERIC EISINGER, in his official
capacity as Benton County Prosecuting
Attorney, ROBERT SEALBY, in his official
capacity as Chelan County Prosecuting
Attorney, MARK NICHOLS, in his official

Case No. 3:25-cv-05461-DGE

**DECLARATION OF GARY M.
ZENDER IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

1 capacity as Clallam County Prosecuting
 2 Attorney, TONY GOLIK, in his official
 3 Capacity as Clark County Prosecuting
 4 Attorney, DALE SLACK, in his official
 5 capacity as Columbia County Prosecuting
 6 Attorney, RYAN JURVAKAINEN, in his
 7 official capacity as Cowlitz County
 8 Prosecuting Attorney, GORDON EDGAR, in
 9 his official capacity as Douglas County
 10 Prosecuting Attorney, MICHAEL GOLDEN,
 11 in his official capacity as Ferry County
 12 Prosecuting Attorney, SHAWN SANT, in his
 13 official capacity as Franklin County
 14 Prosecuting Attorney, MATHEW
 15 NEWBERG, in his official capacity as
 16 Garfield County Prosecuting Attorney,
 17 KEVIN McCRAE, in his official capacity as
 18 Grant County Prosecuting Attorney, NORMA
 19 TILLOTSON, in her official capacity as Grays
 20 Harbor County Prosecuting Attorney,
 21 GREGORY BANKS, in his official capacity
 22 as Island County Prosecuting Attorney,
 23 JAMES KENNEDY, in his official capacity as
 24 Jefferson County Prosecuting Attorney,
 25 CHAD ENRIGHT, in his official capacity as
 26 Kitsap County Prosecuting Attorney,
 27 GREGORY ZEMPEL, in his official capacity
 28 as Kittitas County Prosecuting Attorney,
 DAVID QUESNEL, in his official capacity as
 Klickitat County Prosecuting Attorney,
 JONATHAN MEYER, in his official capacity
 as Lewis County Prosecuting Attorney, TY
 ALBERTSON, in his official capacity as
 Lincoln County Prosecuting Attorney,
 MICHAEL DORCY, in his official capacity as
 Mason County Prosecuting Attorney,
 ALBERT LIN, in his official capacity as
 Okanogan County Prosecuting Attorney,
 MICHAEL ROTHMAN, in his official
 capacity as Pacific County Prosecuting
 Attorney, DOLLY HUNT, in her official
 Capacity as Pend Orielle County Prosecuting
 Attorney, MARY ROBNETT, in her official
 capacity as Pierce County Prosecuting
 Attorney, AMY VIRA, in her official capacity
 as San Juan County Prosecuting Attorney,
 RICH WEYRICH, in his official Capacity as

1 Skagit County Prosecuting Attorney, ADAM
2 KICK, in his official capacity as Skamania
3 County Prosecuting Attorney, JASON
4 CUMMINGS, in his official capacity as
5 Snohomish County Prosecuting Attorney,
6 ERIKA GEORGE, in her official capacity as
7 Stevens County Prosecuting Attorney, JON
8 TUNHEIM, in his official capacity as
9 Thurston County Prosecuting Attorney, DAN
10 BIGELOW, in his official capacity as
11 Wahkiakum County Prosecuting Attorney,
12 GABE ACOSTA, in his official capacity as
13 Walla Walla County Prosecuting Attorney,
14 ERIC RICHEY, in his official capacity as
15 Whatcom County Prosecuting Attorney, and
16 DENIS TRACY, in his official capacity as
17 Whitman County Prosecuting Attorney,

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Defendants.

1 I, Gary M. Zender, hereby declare as follows:

2 1. I am over the age of eighteen and competent to make this declaration. I make this
3 declaration based on personal knowledge about which I am competent to testify.

4 2. I am a priest incardinated in the Roman Catholic Archdiocese of Seattle, Vicar for
5 Clergy of the Archdiocese, and priest in residence at Parish Family #27, which includes St. Louise
6 de Marillac and St. Madeleine Sophie Churches in Bellevue. As Vicar General for the Archdiocese,
7 I am a liaison between Archbishop Paul D. Etienne and the Archdiocesan clergy, make
8 recommendations to him on clergy assignments, and assist him in supporting the well-being of the
9 Archdiocesan clergy. As a priest of the Archdiocese of Seattle, I have the faculties to, and do, hear
10 the Sacrament of Confession throughout the Archdiocese of Seattle

11 3. I have reviewed the declaration of Archbishop Paul D. Etienne, including the
12 articulation of the teachings of the Roman Catholic Church regarding the Sacrament of Confession
13 and the sacramental seal. I sincerely believe in the Roman Catholic faith and the teaching of the
14 Roman Catholic Church, including with respect to the Sacrament of Confession and sacramental
15 seal, as articulated in the declaration of Archbishop Paul D. Etienne.

16 4. As a priest of the Archdiocese of Seattle, I am required to, and do, adhere to the
17 policies of the Archdiocese of Seattle concerning the reporting of child abuse and neglect.
18 Pursuant to those policies, I am required to, and do, report to proper law enforcement agencies or
19 the department of children, youth, and families whenever I have reasonable cause to believe child
20 abuse or neglect has occurred. The sole exception to this reporting requirement is information that
21 I learn in the confessional and protected by the sacramental seal.

22 5. Moreover, because absolution given by a priest requires true contrition for all
23 confessed sins, I could counsel any penitent disclosing child abuse or neglect to self-report and
24 obtain the necessary temporal intervention and help. If I suspect based on what is disclosed during
25 confession that the penitent is suffering from abuse or neglect, the penitent has engaged in abuse
26 or neglect, or some third party has engaged in abuse or neglect, I could invite the penitent for
27 counseling outside of the Sacrament of Confession. If the penitent were to agree to such
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1 counseling and I were to learn information in that non-sacramental counseling providing me with
2 reasonable cause to believe abuse or neglect has been committed, I am obligated to, and would,
3 report that suspected abuse or neglect to proper law enforcement agencies or the department of
4 children, youth, and families.

5 6. Given the intrusion on the sacramental seal and my sincerely held religious belief
6 in the teaching of the Roman Catholic Church regarding the sacramental seal, I will not comply
7 with the amendments to RCW § 26.44.030 effected by Senate Bill 5375—to the point of going to
8 jail or incurring a fine or civil liability.

9 * * *

10 I declare under penalty of perjury that the foregoing is true and correct.

11 

12 Gary M. Zender

13 EXECUTED this 5th day of June, 2025, at Seattle, Washington.